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Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

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I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the sixty-seventh session of the General Assembly in accordance with Assembly resolution 65/29 of 6 December 2010.

2. At its 2nd plenary meeting, on 21 September 2012, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 15th, 24th and 25th meetings, on 22 October and on 9 and 16 November 2012. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/67/SR.15, 24 and 25).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General on the Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/67/182 and A/67/182/Add.1).

II. Consideration of draft resolution A/C.6/67/L.14

5. At the 24th meeting, on 9 November 2012, the representative of Sweden, on behalf of Argentina, Australia, Austria, Belarus, Belgium, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Ireland, Italy,

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Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, the Republic of Moldova, Serbia, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of) introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/67/L.14). Subsequently, Nigeria and Ukraine joined in sponsoring the draft resolution.

6. At the 25th meeting, the Committee adopted draft resolution A/C.6/67/L.14 without a vote (see para. 8).

7. The representatives of the Syrian Arab Republic and Egypt made statements in explanation of positions after the adoption of the draft resolution.

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its biennial resolutions on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, including its resolution 65/29 of 6 December 2010,

Having considered the report of the Secretary-General,[1]

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions of 1949[2] and the Additional Protocols,[3]

Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross, together with relevant partners such as national Red Cross and Red Crescent societies, to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[4] to the Geneva Conventions,

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Taking note of the fact that, in paragraphs 8 and 9 of its resolution 1894 (2009) of 11 November 2009 on the protection of civilians in armed conflict, the Security

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[1] A/67/182 and Add.1.

[2] United Nations, *Treaty Series* , vol. 75, Nos. 970-973.

[3] Ibid., vol. 1125, Nos. 17512 and 17513, and vol. 2404, No. 43425.

[4] Ibid., vol. 1125, No. 17512.

Council noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, underlined the importance in that regard of receiving information that is timely, objective, accurate and reliable, and considered the possibility, to that end, of using the International Humanitarian Fact-Finding Commission established by article 90 of Protocol I,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Noting the special responsibilities of national Red Cross and Red Crescent societies, as auxiliaries to the public authorities of their respective States in the humanitarian field, to cooperate with and assist their Governments in the promotion, dissemination and implementation of international humanitarian law,

Recalling the undertakings of the Thirty-first International Conference of the Red Cross and Red Crescent, held in Geneva from 28 November to 1 December 2011, in which the Conference reaffirmed the need to reinforce the implementation of and respect for international humanitarian law,

Welcoming the launch of the initiative by Switzerland, in collaboration with the International Committee of the Red Cross, to facilitate a process aimed at exploring and identifying concrete ways and means to strengthen the application of international humanitarian law, including ensuring the effectiveness of mechanisms of compliance and reinforcing dialogue on issues of international humanitarian law,

Noting the serious concern expressed by States regarding the humanitarian impact caused by cluster munitions, and noting the entry into force of the Convention on Cluster Munitions[5] on 1 August 2010,

Welcoming the significant debate generated by the publication in 2005 of the study by the International Committee of the Red Cross on customary international humanitarian law and recent initiatives by the Committee, including the online launch of the updated study, as well as the growing number of translations into other languages of parts of the study, and looking forward to further constructive discussion on the subject,

Acknowledging the fact that the Rome Statute of the International Criminal Court[6] covers the most serious crimes of international concern under international humanitarian law and that the Rome Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting the amendments to article 8 of the Rome Statute of the International Criminal Court, relating to war crimes under the Rome Statute, adopted at the Review Conference of the Rome Statute, held in Kampala, on 10 June 2010,

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[5] A/C.1/63/5, enclosure, part II.

[6] United Nations, *Treaty Series* , vol. 2187, No. 38544.

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949,[2] and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;[7]

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols[3] at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[4] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto[8] and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[9]

6. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective, and supports its further strengthening and development;

8. *Notes with appreciation* the adoption at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007, of resolution 3 entitled "Reaffirmation and implementation of international humanitarian law: preserving human life and dignity in armed conflict", in which the Conference, inter alia, reiterated the obligation of States to take national measures to implement international humanitarian law, including training the armed forces and making this law known among the general public, as well as adopting legislation to punish war crimes in accordance with their international obligations;

9. *Also notes with appreciation* the adoption at the Thirty-first International Conference of the Red Cross and Red Crescent of resolution 1 entitled "Strengthening legal protection for victims of armed conflicts", in which the Conference, inter alia, stressed that greater compliance with international humanitarian law is an indispensable prerequisite for improving the situation of victims of armed conflict and reaffirmed the obligation of all States and all parties

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[7] Ibid., vol. 1125, Nos. 17512 and 17513.

[8] Ibid., vol. 249, No. 3511, and vol. 2253, No. 3511.

[9] Ibid., vol. 2173, No. 27531.

to armed conflict to respect and ensure respect for international humanitarian law in all circumstances;

10. *Recognizes*, taking into account questions raised by States during the preparation for the Thirty-first International Conference of the Red Cross and Red Crescent and during the debates at the Conference, the importance of exploring ways to enhance and ensure the effectiveness of mechanisms of compliance with international humanitarian law, with a view to strengthening legal protection for all victims of armed conflict, and in this regard welcomes the launch of the initiative by Switzerland, in collaboration with the International Committee of the Red Cross, to facilitate a process in this regard;

11. *Welcomes* the activities of the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments, and reminds Member States of the availability of the manual on domestic implementation of international humanitarian law;

12. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and their work in promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

13. *Requests* the Secretary-General to submit to the General Assembly at its sixty-ninth session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

14. *Encourages* Member States and the International Committee of the Red Cross, in transmitting information to the Secretary-General, to focus on new developments and activities during the reporting period;

15. *Encourages* Member States to explore ways of facilitating the submission of information for future reports of the Secretary-General and, in this context, to consider the convenience of using a questionnaire to be drafted by Member States, with the assistance of the International Committee of the Red Cross and, as appropriate, in consultation with the Secretariat, for submission to the General Assembly at its sixty-ninth session;

16. *Decides* to include in the provisional agenda of its sixty-ninth session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".